

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT LEE JENKINS, JR.,

Plaintiff,

v.

T.L. CAMPBELL, et al.,

Defendants.

No. 1:24-cv-00016 JLT GSA (PC)

ORDER ACKNOWLEDGING PLAINTIFF'S  
NOTICE OF VOLUNTARY DISMISSAL OF  
THIS MATTER

(See ECF No. 19)

ORDER DIRECTING CLERK OF COURT TO  
CLOSE THIS CASE, CONSISTENT WITH  
PLAINTIFF'S NOTICE

Fed. R. Civ. P. 41(a)(1)(A)(i)

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff is a three strikes litigant within the meaning of 28 U.S.C. § 1915(g). See ECF Nos. 10, 11 (findings and recommendations; order adopting same). He has filed a response to the Court's order that directed him to pay the filing fees for this case in full. ECF No. 19.

The Court construes Plaintiff's response as a notice to voluntarily dismiss this matter.<sup>1</sup> For the reasons stated below the Court will acknowledge Plaintiff's notice and consistent with it,

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<sup>1</sup> The Clerk of Court will be directed to edit the description on the docket of Plaintiff's filing at ECF No. 19 so that it reflects this description.

the Court will direct the Clerk of Court to close this case.

I. RELEVANT FACTS

On July 25, 2024, because Plaintiff had been found to be a three strikes litigant, Plaintiff was ordered to pay the filing fee in full in this matter prior to proceeding any further with it. ECF No. 18. At that time, he was given twenty-one days to pay the fees. Id. at 2. On August 14, 2024, Plaintiff filed the instant notice that he would like to voluntarily dismiss this case. ECF No. 19.

II. DISCUSSION

In the notice, Plaintiff states that he would like the Court to dismiss this case because he is unable to pay the filing fee in full at this time. ECF No. 19 at 1. He further states that he intends to refile this case at a later date and pay the fees in full. Id.

Federal Rule of Civil Procedure 41 permits a plaintiff to voluntarily dismiss a case without a court order if an opposing party has not yet served an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). Given that this case has not yet been screened, Plaintiff's notice that he would like to dismiss this case is permitted under the rule. The Court acknowledges this herein and consistent with Plaintiff's notice it will direct that the Clerk of Court close this case.

Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of Court shall edit the description of the entry at ECF No. 19 on the docket to read: "Notice of Voluntary Dismissal (Response to 18 Order)";

2. The Court herein ACKNOWLEDGES Plaintiff's notice of voluntary dismissal (ECF No. 19). See Fed. R. Civ. P. 41(a)(1)(A)(i), and

3. Consistent with Plaintiff's notice of voluntary dismissal (ECF No. 19), the Clerk of Court shall CLOSE this case.

IT IS SO ORDERED.

Dated: August 15, 2024

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE